In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 19090 of 2006

Date of Decision: 04.12.2006

Shiv Kumar

…Petitioner

Versus

State of Haryana and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. P.L. Verma, Advocate,

for the petitioner.

JUDGMENT

M.M. KUMAR, J.

The petitioner who has been working on the post of Constable has challenged orders dated 5.10.2006 and 16.10.2006 (P-5 and P-6) passed by respondent Nos. 2 and 4 respectively. Vide order dated 5.10.2006 (P-5) the Director General of Police, Haryana, after issuing show cause notice to the petitioner, set aside the order dated 11.8.2004 passed by the then DGP whereby while accepting the

mercy petition of the petitioner, the punishment of dismissal from service, which was inflicted upon him by the Punishing Authority as well as Appellate Authority, was reduced to that of stoppage of five increments with permanent effect. The Commandant, 2nd Bn. HAP, Madhuban, implemented the aforementioned order dated 5.10.2006 and relieved the petitioner from the force, vide order dated 16.10.2006 (P-6).

The controversy raised in the instant petition has earlier been considered by us in the cases of Const. Rishipal v. State of Haryana and others (C.W.P. No. 17778 of 2006, decided on 7.11.2006); Mehtab Singh v. State of Haryana and others (C.W.P. No. 17532 of 2006, decided on 7.11.2006); Devinder Kumar v. State of Haryana and others (C.W.P. No. 18712 of 2006, decided on 27.11.2006) and Satish Kumar v. State of Haryana and others (C.W.P. No. 18889 of 2006, decided on 30.11.2006). In the aforementioned judgments we have placed reliance on Rule 16.28 of the Punjab Police Rules, 1934, to conclude that the Director General of Police has not been vested with powers of review of its own order although he enjoys supervisory power for reversing the orders of his subordinates. We have also held by placing reliance on the judgments of Hon'ble the Supreme Court in the cases of **Gadde Venkateswara Rai v. Government of Andhra Pradesh, AIR 1966 SC 828** and **M.C. Mehta v. Union of India, (1999) 6 SCC 237,** that once the Director General of Police has passed an illegal order then the later order passed by the successor DGP is not required to be

interfered with as it would result into restoration of an earlier illegal order. Even the principles of natural justice are not required to be followed in such like situations. The matter is squarely covered. For the reasons stated in the aforementioned judgments, this writ petition is liable to be dismissed.

For the reasons mentioned above, this petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)

December 4, 2006
JUDGE

Pkapoor